

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

_____	)	
A.K.C. a minor, by and through his Mother and	)	
Father and Next Friend, and JARROD COKER	)	
And BARBARA W. COKER, individually,	)	
	)	
Plaintiffs,	)	
v.	)	CIVIL ACTION FILE NO.
	)	2:07cv-00743-MHT
CONAGRA FOODS, INC.,	)	
	)	
Defendant.	)	
_____	)	

**NOTICE OF MDL PROCEEDINGS**

Defendant, ConAgra Foods, Inc. ("ConAgra"), by counsel, files this Notice of MDL Proceedings ("Notice") and would apprise the Court as follows:

1. Three motions to centralize litigation regarding alleged harm from consuming and/or purchasing contaminated peanut butter that was manufactured at ConAgra's Sylvester, Georgia, plant were filed before the Judicial Panel for Multidistrict Litigation ("JPML").

2. On July 17, 2007, the JPML issued an order, attached hereto as Exhibit A, creating an MDL (No. 1845) before Judge Thomas Thrash in the Northern District of Georgia, Atlanta Division and transferring certain cases to the MDL for consolidated discovery and pretrial rulings. Specifically, the JPML stated that this centralization "will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation" and "is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect to questions of class certification), and conserve the resources of the parties, their counsel, and the judiciary." Exhibit A at 2.

3. On August 24, 2007, ConAgra sent a notice to the JPML pursuant to Rule 7.5(e) of the Rules of Judicial Procedure for Multidistrict Litigation identifying this action as a potential "tag-along." 8/24/07 Letter, attached hereto as Exhibit B.

/s Lucy W. Jordan  
Timothy W. Knight (KNI021)  
Lucy W. Jordan (JOR037)  
Attorneys for Defendant  
ConAgra Foods, Inc.

**OF COUNSEL:**

Kee & Selby, LLP  
1900 International Park Drive  
Suite 220  
Birmingham, AL 35243  
(205) 968-9900  
fax (205) 968-9909  
email: [tk@keeselby.com](mailto:tk@keeselby.com)  
[lj@keeselby.com](mailto:lj@keeselby.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 31, 2007, a copy of the foregoing pleading was filed electronically using the CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail.

/s Lucy W. Jordan  
OF COUNSEL

JUL 17 2007

FILED  
CLERK'S OFFICE**RELEASED FOR PUBLICATION****DOCKET NO. 1845****BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION****IN RE CONAGRA PEANUT BUTTER PRODUCTS LIABILITY LITIGATION****BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J.  
FREDERICK MOTZ, ROBERT L. MILLER, JR.,\* KATHRYN H. VRATIL,  
DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL****TRANSFER ORDER**

This litigation currently consists of twenty actions listed on the attached Schedule A and pending in thirteen districts as follows: five actions in the District of South Carolina; three actions in the Northern District of Georgia; two actions in the Middle District of Georgia; and one action each in the Middle District of Florida, the Southern District of Florida, the Northern District of Mississippi, the Western District of Missouri, the Western District of New York, the Eastern District of Oklahoma, the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the Eastern District of Tennessee, and the Western District of Washington.<sup>1</sup> Before the Panel are three motions, brought by various plaintiffs, pursuant to 28 U.S.C. § 1407, for an order centralizing this litigation, respectively, in the Northern District of Georgia, the District of South Carolina or the Western District of Washington.<sup>2</sup> All responding parties support centralization, but disagree as to the selection of a transferee forum. Common defendant ConAgra Foods, Inc. (ConAgra) supports centralization in the Western District of Missouri or, alternatively, the Northern District of Georgia or the Western District of Washington. Responding plaintiffs have suggested several additional districts in which to centralize the actions, including the District of Colorado, the Northern District of Illinois, the Southern District of Mississippi, the District of New Jersey, or the Middle District of Pennsylvania.

On the basis of the papers filed and hearing session held, the Panel finds that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the Northern

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\* Judge Miller took no part in the decision of this matter.

<sup>1</sup> The Panel has been notified of 34 potentially related actions pending in multiple federal districts. In light of the Panel's disposition of this docket, these actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

<sup>2</sup> Moving plaintiff in the Northern District of Mississippi action initially failed to designate a desired transferee forum, but in a later submission expressed support for transfer to the Western District of Washington.

- 2 -

District of Georgia will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Plaintiffs in all actions allege harm from consuming and/or purchasing contaminated peanut butter that was manufactured and packaged at ConAgra's Sylvester, Georgia, plant. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect to questions of class certification), and conserve the resources of the parties, their counsel and the judiciary.

The Panel is persuaded that the Northern District of Georgia is an appropriate transferee forum for this litigation. This district, where three actions and two potential tag-along actions are pending, enjoys the support of several plaintiffs and, in the alternative, ConAgra. Likely relevant documents and witnesses may be found in this district, inasmuch as the manufacturing plant where the contamination occurred and the governmental agency that investigated the contamination are located there. By centralizing this litigation before Judge Thomas W. Thrash, Jr., we are selecting a jurist experienced in multidistrict litigation to steer this matter on a prudent course.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Northern District of Georgia are transferred to the Northern District of Georgia and, with the consent of that court, assigned to the Honorable Thomas W. Thrash, Jr., for coordinated or consolidated pretrial proceedings with the actions listed on Schedule A and pending in that district.

FOR THE PANEL:



Wm. Terrell Hodges  
Chairman

**SCHEDULE A  
MDL NO. 1845  
IN RE CONAGRA PEANUT BUTTER PRODUCTS LIABILITY LITIGATION**

Middle District of Florida

*Marion Caldarera v. ConAgra Foods, Inc., et al.*, C.A. No. 8:07-384

Southern District of Florida

*Charles Stafford v. ConAgra Foods, Inc.*, C.A. No. 9:07-80178

Middle District of Georgia

*Karen Klepsig, et al. v. ConAgra Foods, Inc.*, C.A. No. 1:07-37

*Geoffrey Midler v. ConAgra Foods, Inc.*, C.A. No. 1:07-42

Northern District of Georgia

*Anne Cease, et al. v. ConAgra Foods, Inc.*, C.A. No. 1:07-425

*John Harper v. ConAgra Foods, Inc.*, C.A. No. 1:07-538

*Grady Ware, et al. v. ConAgra Foods, Inc.*, C.A. No. 4:07-40

Northern District of Mississippi

*Pamela Gateley, etc. v. ConAgra Foods, Inc.*, C.A. No. 2:07-35

Western District of Missouri

*Brian Cox, et al. v. ConAgra Foods, Inc.*, C.A. No. 5:07-6027

Western District of New York

*Mark Avalone, et al. v. ConAgra Foods, Inc.*, C.A. No. 6:07-6084

Eastern District of Oklahoma

*Esther Cranford v. ConAgra Foods, Inc.*, C.A. No. 6:07-56

Eastern District of Pennsylvania

*Lucille A. Knight v. ConAgra Foods, Inc.*, C.A. No. 2:07-818

- A2 -

**MDL No. 1845 Schedule A (Continued)****Middle District of Pennsylvania***Kathleen Nieves, et al. v. ConAgra Foods, Inc.*, C.A. No. 3:07-327**District of South Carolina***Annie Blackwell v. ConAgra Foods, Inc.*, C.A. No. 0:07-529*Thomas B. Price v. ConAgra Foods, Inc.*, C.A. No. 3:07-536*Jerry Shawn Medford v. ConAgra Foods, Inc.*, C.A. No. 3:07-611*Jamie S. Jeffords v. ConAgra Foods, Inc.*, C.A. No. 4:07-530*Jennifer Ann Hoey, et al. v. ConAgra Foods, Inc.*, C.A. No. 7:07-544**Eastern District of Tennessee***Cynthia Woodlee, et al. v. ConAgra Foods, Inc.*, C.A. No. 4:07-15**Western District of Washington***James Winston Daniels, II, et al. v. ConAgra, Inc.*, C.A. No. 2:07-259

McGuire Woods LLP  
One James Center  
901 East Cary Street  
Richmond, VA 23219-4030  
Phone: 804.775.1000  
Fax: 804.775.1061  
www.mcguirewoods.com

James H. Walsh  
Direct: 804.775.4356

McGUIREWOODS

jwalsh@mcguirewoods.com  
Direct Fax: 804.698.2200

August 24, 2007

**VIA FACSIMILE**

Mr. Jeffery N. Lüthi  
Clerk of the Panel  
Judicial Panel on Multidistrict Litigation  
One Columbus Circle NE  
Thurgood Marshall Federal Judiciary Building  
Room G-255, North Lobby  
Washington, DC 20002-8004

Re: In re ConAgra Salmonella Litigation, MDL No. 1845

Dear Mr. Lüthi:

Pursuant to Rule 7.5(e) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, ConAgra notifies this Panel of the following additional potential "tag-along actions" to those actions already consolidated in MDL No. 1845 now pending in the United States District Court for the Northern District of Georgia:

Mary F. Brown, et al. v. ConAgra Foods, Inc., et al., 4:07-cv-02745 (unassigned), filed August 24, 2007, in the United States District Court, Southern District of Texas

A.K.C., a minor, et al. v. ConAgra Foods, Inc., et al., 2:07-CV-00743 (Thompson, J.), filed August 21, 2007, in the United States District Court, Middle District of Alabama;

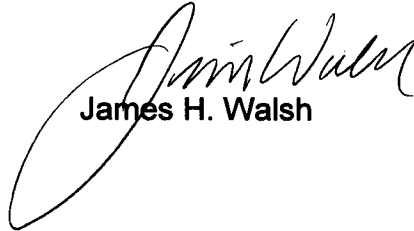
Lillian Katz v. ConAgra Foods, Inc., 1:07-CV-11509 (Tauro, J.), filed August 14, 2007, in the United States District Court, District of Massachusetts;

Sylvia McRae v. ConAgra Foods, Inc., 8:07-CV-01491-EAK-EAJ (Kovachevich, J.), filed August 21, 2007, in the United States District Court, Middle District of Florida;

Donna Powell v. ConAgra Foods, Inc., 1:07-CV-00216-PS (Simon, J.), filed August 17, 2007, in the United States District Court, Northern District of Indiana.

Mr. Jeffery N. Lüthi  
Judicial Panel on Multidistrict Litigation  
August 24, 2007  
Page 2

Very truly yours,

A handwritten signature in cursive script, appearing to read "James H. Walsh", is written over the printed name. The signature is fluid and stylized, with a large loop at the beginning and a long, sweeping tail.

cc: Panel Service List  
JHW/say



User ID: DDNEBLET

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TO: Name: Mr. Jeffery N. Luthi, Clerk of the Panel  
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